

**REMARKS/ARGUMENTS**

Claims 62-81 stand in the present application, claims 62 and 70 having been amended. Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks. The undersigned notes with appreciation the courtesy and helpfulness extended by the Examiner during the telephone interview on August 3, 2005. The above-described claim amendments and following remarks were discussed during the telephone interview.

In the Office Action, the Examiner has rejected claims 62-81 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In view of the above-described claims amendments, the Examiner's § 112, second paragraph, rejection of the claims is believed to have been overcome.

The Examiner has also rejected claims 62-69 under 35 U.S.C. § 102(e) as being anticipated by Itaya et al. and has rejected claims 70-81 under 35 U.S.C. § 103(a) as being unpatentable over Itaya et al. in view of Ng. Applicants respectfully traverse the §§ 102 and 103 rejections.

Independent claims 62 and 70 have been amended to further recite that the active layer where electrons in the holes are recombined is a separate and distinct layer from the substrate and the first to third nitride semiconductor layers. The references cited by the Examiner disclose a third nitride semiconductor which is also an active layer. However, now that a separate and distinct active layer has been recited in the claims, the present claims distinguish over the cited references.

Therefore, in view of the above amendments, it is respectfully requested that all of claims 62-81, now standing in the application, patentably define over the cited references taken either singly or in combination.

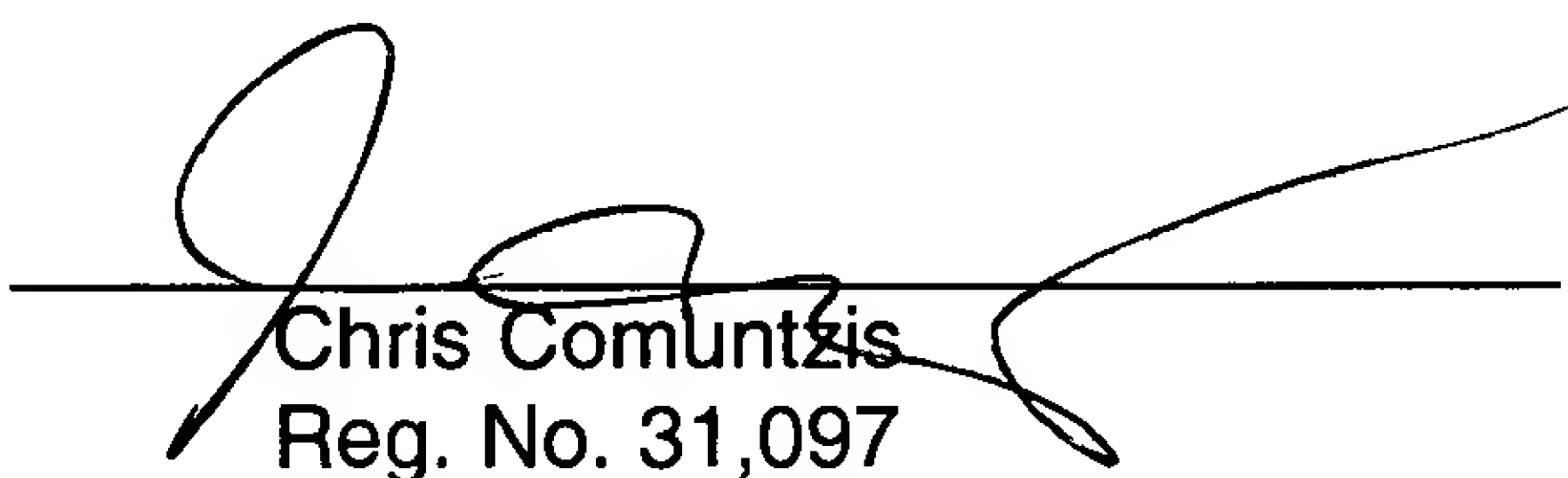
Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of claims 62-81, now standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

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